



MAR 08 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jacobson, Price, Holman & Stern
The Jenifer Building
400 Seventh Street N.W., Suite 600
Washington, DC 20004-2201

| | | |
|----------------------------------|---|-------------------|
| In re Application of | : | |
| CONNOLLY et al. | : | DECISION ON |
| Application No.: 09/701,739 | : | |
| PCT No.: PCT/IE99/00049 | : | PAPERS |
| Int. Filing Date: 03 June 1999 | : | |
| Priority Date: 03 June 1998 | : | UNDER 37 CFR 1.42 |
| Attorney's Docket No.: P66063US0 | : | |
| For: A THERAPEUTIC BED | : | |

This is a decision on applicants' "RESPONSE TO DECISION ON PAPER UNDER 37 CFR 1.42" filed 18 October 2001.

BACKGROUND

On 03 June 1999, applicants filed international application PCT/IE99/00049, which claimed a priority date of 03 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 December 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 December 2000 (03 December 2000 being Sunday).

On 04 December 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 29 December 2000, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors was required. This Notification set a one month extendable period for reply.

On 28 June 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, a declaration of the inventors, an "ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY . . . INVENTOR (37 CFR

1.42 AND 1.43), a copy of a district probate registry, and a copy of the last will and testament of Patrick Connolly.

On 21 September 2001, the USPTO mailed a decision refusing applicants' request for status under 37 CFR 1.42. Specifically, it was noted that it was not clear from the declaration filed 28 June 2001 whether Una Connolly was signing as the legal representative, as an heir, or as the sole heir. The decision noted that if the declaration is signed by a legal representative, the declaration should state that this person is the legal representative or, alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. The decision also indicated that the declaration failed to comply with 37 CFR 1.497(a)-(b) because it did not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased inventor (in addition to the full name and citizenship of the deceased inventor).

On 18 October 2001, applicants submitted the instant "RESPONSE TO DECISION ON PAPER UNDER 37 CFR 1.42".

DISCUSSION

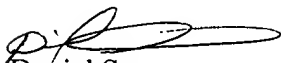
The submission filed 18 October 2001 includes a statement by applicants' attorney that Una Connolly is the legal representative. Also, as noted in the submission filed by applicants on 18 October 2001, the declaration filed 28 June 2001 does include the residence, mailing address and citizenship of Una Connolly. Accordingly, the above application and papers have been found in compliance with 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing including according the application a 35 U.S.C. 371(c) date of **28 June 2001**.



Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459